

REMARKS

Claims 1-25 are in the application. No Claim stands allowed.

Claims 1-7, 9, 10, 14, 18 and 19 stand rejected under 35 USC 102(b) as being anticipated by U.S. Pat. 5,146,877 (Jaffee et al.).

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. ... In deciding the issue of anticipation, the trier of fact must identify the element of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipation reference. *SSIH Equip. S.A. v. USITC*, 218 USPQ 678 (Fed. Cir. 1983); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick* 221 USPQ 481,485 (Fed. Cir. 1984).

It is respectfully submitted that Jaffee et al. fails to anticipate Applicant's invention as set forth in independent Claims 1, 18 and 19. Specifically, in each of Claims 1, 18 and 19, the first and second absorbents are defined as being "buoyant relative to the liquid sought to be solidified", the "first absorbent having an apparent density which renders said first absorbent positively buoyant relative to the liquid sought to be liquefied" and the "second absorbent having an apparent density which renders said second absorbent negatively buoyant relative to the liquid sought to be solidified". Jaffee et al. does not disclose absorbents whose buoyancies are identified. The relative densities of the absorbents (paper and clay particles) disclosed by Jaffee et al. refer to the densities of each of the components (absorbents) relative to each other, not to their relative buoyancies relative to any liquid sought to be absorbed by the particles. Relative buoyancies of a plurality of absorbents is of no concern in Jaffee et al.

Additionally, Applicant's Claims 1, 18 and 19 each call for the first and second absorbents to be combined in a "mixture thereof". Reading this element of the Claims in question, in their context within the Claims, it is clear that the "mixture" would, of necessity, have to be introduced into a volume of liquid (as recited in each of these Claims) in order for the invention to be operative. That is, there can be no physical separation of the components of the mixture of absorbents, the separation being based upon the apparent densities of the absorbents relative to the liquid sought to be absorbed, unless the absorbents are present in a volume of liquid. Jaffee et al. does not disclose this feature of the claimed invention. Rather, Jaffee et al. discloses a combination of absorbents for use as a pet litter wherein the absorbents never have an opportunity to separate in a volume of liquid, based upon their respective apparent densities (their buoyancies) relative to the liquid sought to be solidified.

Claims 2-7, 9, 10 and 14 are dependent on Claim 1. Each of these Claims inherits the features of its parent and any intervening Claim, as well as adding an addition feature. It is respectfully submitted that, like their parent Claim 1, neither of these Claims is anticipated by Jaffee et al. for the same reasons, among others, as set forth herein in discussing Claim 1.

Withdrawal of the rejection of Claims 1-7,9, 10, 14, 18 and 19 under 35 USC 102(b) as being anticipated by Jaffee et al., is respectfully requested.

Claims 1,3,5,6,8 11, 15, 19-24 stand rejected under 35 USC 102(b) as being anticipated by U.S. Pat. No. 5,939,086 (Levy). Applicant respectfully contends that these Claims are not anticipated by Levy.

As noted hereinabove, Claim 1 and 19 includes the features, among others, of the first and second absorbents defined as being "buoyant relative to the liquid sought to be solidified", the "first absorbent having an apparent density which renders said first absorbent positively buoyant relative to the liquid sought to be liquefied" and the "second absorbent having an apparent density which renders said second absorbent negatively buoyant relative to the liquid sought to be solidified". Like Jaffee et al., Levy does not disclose absorbents whose buoyancies are identified. Whereas Levy discloses a large number of "superabsorbents", Levy does not disclose a mixture of absorbents wherein one of the absorbents of the mixture exhibits a negative buoyancy relative to the liquid being absorbed and another of the absorbents of the mixture exhibits a positive buoyancy relative to the liquid being absorbed, as is required in Applicant's claimed invention. Buoyancies of first and second absorbents, relative to the liquid being absorbed, as in Jaffee et al., is of no concern in Levy.

Additionally, Applicant's Claims 19 and 23 (the single independent method Claim) each call for the first and second absorbents to be combined in a "mixture thereof". Reading this element of the Claims in question, in their context within the Claims, it is clear that the "mixture" would, of necessity, have to be introduced into a volume of liquid (as recited in each of these Claims) in order for the invention to be operative. That is, there can be no physical separation of the components of the mixture of absorbents, the separation being based upon the apparent densities of the absorbents relative to the liquid sought to be absorbed, unless the absorbents are present in a volume of liquid. Levy does not disclose this feature of the claimed invention.

Again, Claims 3,5,6, 8 11 and 15 are dependent on Claim 1. Claims 20-22 are dependent on Claim 19. Each of these Claims inherits the features of its parent and any intervening Claim, as well as adding an addition feature. It is respectfully submitted that, like their parent Claims 1 and 19, neither of these Claims is anticipated by Levy, for the same reasons, among others, as set forth herein in discussing Claims 1 and 19.

Claim 23, as noted above, is the sole independent method Claim presently in the application. The failure of Levy to anticipate Claim 23 is noted hereinabove. Claim 24 is dependent on Claim 23 and its allowance is urged for the same reasons, among others, as set forth hereinabove in discussing Claim 23.

Withdrawal of the rejection of Claims 1, 3, 5-6, 8, 11, 15, and 19-24 under 35 USC 102(b) as being anticipated by Levy, is respectfully requested.

Claims 8 and 21-25 stand rejected under 35 USC 103(a) as being unpatentable over the combination of Jaffee et al. and published patent application 200020193492 to Wilson.

"A determination of obviousness must involve more than indiscriminately combining prior art; a motivation or suggestion to combine must exist". *Micro Chemical v. Great Plains Chemical Co.*, 41 USPQ2d 1238 (Fed. Cir. 1997)

"[A] rejection cannot be predicated on the mere identification ... of individual components of claimed limitation. Rather, particular finding must be made as to the reason the skilled artisan, without knowledge of the claimed invention, would have selected these components for combination in the manner claimed". *Ecolocem Inc. v. Southern California Edison* 56 USPQ2d 1065, 1066 (Fed. Cir. 2000).

It is respectfully submitted that, contrary to the position of the Examiner, Jaffee et al. does not include "each and every limitation of claims 8 and 21-22 ... except Jaffee fails to explicitly disclose the 50/40/10 ratio and three different absorbents. As noted hereinabove, Jaffee et al. neither discloses, teaches nor suggests a mixture of first and second absorbents, the "first absorbent having an apparent density which renders said first absorbent positively buoyant relative to the liquid sought to be liquefied" and the "second absorbent having an apparent density which renders said second absorbent negatively buoyant relative to the liquid sought to be solidified". This failing of Jaffee et al. as a primary reference, is not cured by the combination of Wilson with Jaffee et al.

Additionally, Applicant's Claims 8 (being dependent on Claim 1 and intervening Claims 5, 6 and 7), 21 (being dependent on Claim 19) and 22 (being dependent on Claim 21), each call for the first and second absorbents to be combined in a "mixture thereof". Further, the first and second absorbents are specifically identified by the relationship of their respective buoyancies, relative to the liquid sought to be solidified. Neither Jaffee et al. nor Wilson disclose, teach or suggest this claimed relationship between the first and second absorbents and the liquid sought to be absorbed. Reading this feature of the Claims in question, in the context within the Claims,

it is clear that the "mixture" would, of necessity, have to be introduced into a volume of liquid (as recited in each of these Claims) in order for the invention to be operative. That is, there can be no physical separation of the components of the mixture of absorbents, the separation being based upon the apparent densities (buoyancies) of the absorbents relative to the liquid sought to be absorbed, unless the absorbents are present in a volume of liquid. Jaffee et al. does not disclose this feature of the claimed invention. Rather, Jaffee et al. discloses a combination of absorbents for use as a pet litter wherein the absorbents never have an opportunity to separate in a volume of liquid, based upon their respective apparent densities (their buoyancies) relative to the liquid sought to be solidified. Wilson does not supply this missing feature of the presently claimed invention.

Withdrawal of the rejection of Claims 8, and 21-25 under 35 USC 103(a) over Jaffee et al. in view of Wilson, is respectfully requested.

Claims 12, 13, 16 and 17 stand rejected under 35 USC 103(a) as being unpatentable over Pat. No. 5,092,858 to Benson and Wilson and Jaffee et al.

Claim 12 is dependent from Claim 11, which, in turn, is dependent from Claim 1. Claim 13 is dependent from Claim 12. Claim 16 is dependent from Claim 15, which, in turn, is dependent from Claim 5, which, in turn, is dependent from Claim 1. Claim 17 is dependent from Claim 16. Thus, each of these Claims is indirectly dependent from Claim 1 and inherits each of the features of the claimed invention as set forth in Claim 1.

At the outset, Applicant respectfully contends that Levy does not disclose "each and every feature of Claim 12", except that the solidified of Claim 11 comprises two or more compartments, each compartment containing a portion of one or more of the absorbents. As discussed hereinabove, since each of Claims 12, 13, 16 and 17 inherit the features of the invention as set forth in Claim 1 (their ultimately parent Claim) and Levy neither discloses, teaches nor suggests the features, among others, of the first and second absorbents defined as being "buoyant relative to the liquid sought to be solidified", the "first absorbent having an apparent density which renders said first absorbent positively buoyant relative to the liquid sought to be liquefied" and the "second absorbent having an apparent density which renders said second absorbent negatively buoyant relative to the liquid sought to be solidified", Levy fails as a primary reference with respect Claims 12, 13, 16 and 17. Levy does not disclose absorbents whose buoyancies are identified. Whereas Levy discloses a large number of "superabsorbents", Levy does not disclose a mixture of absorbents wherein one of the absorbents of the mixture exhibits a negative buoyancy relative to the liquid being absorbed and another of the absorbents of the mixture exhibits a positive buoyancy relative to the liquid being absorbed, as is required in Applicant's

claimed invention. Buoyancies of first and second absorbents, relative to the liquid being absorbed are of no concern in Levy.

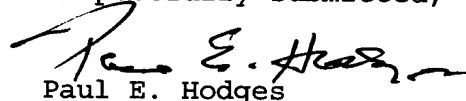
Additionally, each of Claims 12, 13, 16 and 17 (indirectly by reason of their ultimate dependency from Claim 1) call for the first and second absorbents to be combined in a "mixture thereof". Reading this element of the Claims in question, in their context within the Claims, it is clear that the "mixture" would, of necessity, have to be introduced into a volume of liquid (as recited in each of these Claims) in order for the invention to be operative. That is, there can be no physical separation of the components of the mixture of absorbents, the separation being based upon the apparent densities of the absorbents relative to the liquid sought to be absorbed, unless the absorbents are present in a volume of liquid. Levy does not disclose this feature of the claimed invention.

Neither Benson nor Wilson are contended by the Examiner to supply the failings of Levy with respect to the above identified features incorporated into these Claims.

Withdrawal of the rejection of Claims 12, 13, 16 and 17 under 35 USC 103(a) over Levy, Benson and Wilson is respectfully requested.

Reconsideration of the application and allowance of Claims 1-25 are respectfully requested.

Respectfully submitted,


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